vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.1424 OF 2005**

M/s.Bharat Petroleum Corporation Ltd. ... Petitioner

V/s.

Najeer Ahmed Haji Ahmed & Ors. ... Respondents

Mr.S.R. Page for Petitioner
Mr.P.K. Dhakephalkar for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 30, 2005**

**P.C.:**

. This Petition challenges the interim orders of the trial Court and the appellate Court. The trial Court has dismissed the suit on various grounds. The appellate Court, on the other hand, has decreed the suit by concluding that the appellants i.e., the respondents herein had established that the lease in favour of the defendant i.e., the Petitioner herein, automatically came to an end by efflux of time on 30.9.1987. The contention of the Petitioner is that various judgments of the Supreme Court as well as several High Courts including this Court indicate that after the Acquisitions Act of 1976 came into force, the lease would automatically stand renewed.

2. These judgments have not been considered by the Appellate Court. Besides this, the ground regarding the bonafide requirement of the suit premises also needs to be considered properly.

3. In my view, it would be in the fitness of things to remand the matter to the appellate Court. The Appellate Court shall, therefore, decide all issues which have been raised including the issues in respect of maintainability of the suit and bonafide requirement in the light of the various judgments of the Supreme Court as well as various High Courts. The learned Counsel for the Petitioner has relied on the judgment in the case of *Trade Centre Developers & Builders Pvt. Ltd. v/s. Union of India,* **AIR 1985 BOMBAY 4;** *Bharat Petroleum Corporation Ltd. v/s. P.Kesavan & Anr.*, **2004 AIR SCW 1989;** *State of U.P. & Ors. v/s. Lalji Tandon & Ors.,* **(2004) 1 SCC 1** amongst other judgments. On the other hand, it is submitted by the learned Advocate for the Respondents that there is a judgment of Karnataka High Court in *Bharat Petroleum Corporation Ltd. v/s. Mohd. Haneef Choohey,* **AIR 1986 KARNATAKA 191** where the Karnataka High Court has considered that the Act of 1976 and has held that the provisions of this Act would not have any bearing on the landlord’s right to initiate

eviction proceedings under the Rent Control Act. All these judgments and any other judgments that may be cited by the learned Counsel for the parties, in my view, must be considered by the appellate Court before passing any order.

4. The matter is accordingly remanded to the Appellate Court. Writ Petition stands disposed off accordingly.